
(2015) 04 DEL CK 0353

In the Delhi High Court

Case No : Writ Petition (C) 8414/2014 and CM No. 19455 of 2014

Pritam Kaur

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 13-04-2015

Acts Referred:

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 24(2)

Citation : (2015) 221 DLT 131

Hon'ble Judges : Badar Durrez Ahmed, J;Sanjeev Sachdeva, J

Bench : Division Bench

Advocate : N.S. Vasisht, Vishal Singh, M.P. Bhargava and Jyoti Kataria, for the Appellant; Manish Mohan, Manish Rana Singh and Hina Shaheen, Advocates for the Respondent

Final Decision : Allowed

Judgement

Badar Durrez Ahmed, J—The counter-affidavit handed over by Mr. Sanjay Kumar Pathak on behalf of respondent Nos. 4 & 5 is taken on record. The learned Counsel for the petitioner does not wish to file any rejoinder affidavit inasmuch as he would be relying on the averments already contained in the writ petition. The petitioner seeks the benefit of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "the 2013 Act") which came into effect on 1.1.2014. A declaration is sought to the effect that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred to as "the 1894 Act") in respect of which Award No. 33/1986-87 dated 19.9.1986 was made, inter alia, in respect of the petitioner's land comprised in Khasra Nos. 962/2 (2-08), 963 (4-16), 972 (4-16), 973/2 (2-08) and 977/3 (1-08) measuring 15 bighas and 16 biswas in all in village Mahipalpur shall be deemed to have lapsed.

2. The stand of the respondents is that physical possession of the said land was

taken on 27.3.2001. This is disputed by the petitioner, who claims to be in actual physical possession of the subject land.

3. Insofar as the question of compensation is concerned, the same has not been paid to the petitioner but according to the respondents, the same has been deposited in the treasury. Therefore, they seek to invoke the Second Proviso to Section 24(2) of the 2013 Act, which was introduced by virtue of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015 (hereinafter referred to as "the said Ordinance").

4. Insofar as the applicability of the Second Proviso to Section 24(2) of the 2013 Act is concerned, the same cannot be relied upon by the respondents inasmuch it is prospective in operation and does not take away the vested rights. With regard to a similar provision introduced by the Ordinance of 2014, the Supreme Court in a recent decision in *M/s. Radiance Fincap (P) Ltd. & Ors. v. Union of India & Ors.*, decided on 12.1.2015 in Civil Appeal No. 4283/2011 has held as under:

"The right conferred to the land holders/owners of the acquired land under Section 24(2) of the Act is the statutory right and, therefore, the said right cannot be taken away by an Ordinance by inserting proviso to the above said sub-section without giving retrospective effect to the same."

5. The same has been reinforced by the Supreme Court in *Karnail Kaur Vs. State of Punjab*(2015) 2 AD 429 : (2015) 1 RCR(Civil) 786 : (2015) 1 SCALE 598 : (2015) 3 SCC 206 : (2015) 2 SCJ 271 Civil Appeal No. 7424/2013 decided on 22.1.2015.

6. From the above decisions, it is evident that the said Ordinance is prospective in nature and the rights created in favour of the petitioner as on 1.1.2014 by virtue of the 2013 Act are undisturbed by the Second Proviso to Section 24(2) of the 2013 Act, which has been introduced by the said Ordinance.

7. Without going into the controversy with regard to the physical possession, this much is clear that the Award was made more than five years prior to the commencement of the 2013 Act and the compensation has also not been paid to the petitioner, but has only been deposited in the treasury, which does not amount to payment of compensation as interpreted by the Supreme Court in *Pune Municipal Corporation and Another Vs. Harakchand Misirimal Solanki and Others*, AIR 2014 SC 982 : (2014) AIRSCW 787 : (2014) 3 JT 283 : (2014) 1 RCR(Civil) 880 : (2014) 1 SCALE 618 : (2014) 3 SCC 183 .

8. All the necessary ingredients for the application of Section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following cases stand satisfied:

(1) *Union of India (UOI) and Others Vs. Shiv Raj and Others*, AIR 2014 SC 2242 : (2014) AIRSCW 3388 : (2014) 6 SCC 564 ;

(2) Sree Balaji Nagar Residential Association Vs. State of Tamil Nadu, (2014) 10 SCALE 388 Civil Appeal No. 8700/2013 decided on 10.9.2014;

(3) Surender Singh v. Union of India & Ors., WP(C) 2294/2014 decided on 12.9.2014 by this Court; and

(4) Girish Chhabra v. Lt. Governor of Delhi & Ors., WP(C) 2759/2014 decided on 12.9.2014 by this Court.

9. As a result, the petitioner is entitled to a declaration that the said acquisition proceedings initiated under the 1894 Act in respect of the subject land are deemed to have lapsed. It is so declared. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs.